

1 II. DISCUSSION

2 When a party fails to provide requested discovery, the requesting party may move to compel
3 that discovery. *See* Fed. R. Civ. P. 37(a). “[B]road discretion is vested in the trial court to permit
4 or deny discovery.” *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002). Parties are permitted to
5 seek discovery of any nonprivileged matter that is relevant and proportional to the needs of the case.
6 Fed. R. Civ. P. 26(b)(1). The party seeking to avoid discovery bears the burden of explaining why
7 discovery should be denied. *See, e.g., Carr v. State Farm Mut. Auto. Ins. Co.*, 312 F.R.D. 459, 469
8 (N.D. Tex. 2015) (addressing burdens following 2015 amendments to the discovery rules).

9 Defendant submits that it seeks the discovery at issue in order to determine whether personal,
10 professional, or financial stressors could have contributed to the decedent’s suicide. Docket No. 181
11 at 6-8. Defendant further notes that the parties previously agreed to a stipulated protocol for
12 allowing Defendant to search the decedent’s electronic devices which, it submits, the Court should
13 enforce. *Id.* at 6. Plaintiffs respond that the discovery requested is neither relevant nor proportional
14 because Defendant has not yet filed an answer. Docket No. 184 at 2-3. Plaintiffs do not dispute the
15 validity of the stipulated protocol. *See* Docket No. 184. Defendant replies that, *inter alia*, Plaintiffs
16 placed the cause of decedent’s death in issue by alleging that Ambien CR caused his suicide. Docket
17 No. 188 at 2. Defendant also submits that the discovery sought is relevant and proportional, and that
18 Plaintiffs impliedly agreed as such because “the parties previously stipulated to a cost-sharing
19 agreement that distributes the cost of data retrieval between the two parties.” *Id.* at 4.

20 The Court finds that the discovery that Defendant seeks is clearly relevant to the issues
21 presented, specifically the decedent’s state of mind before his suicide, and any factors that
22 contributed to his suicide. Additionally, the Court finds the discovery requested proportional to the
23 needs of the case. Moreover, the Court has repeatedly rejected Plaintiffs’ argument that discovery
24 should not ensue prior to the filing of an answer. *See, e.g.,* Docket Nos. 165, 174. Further, as
25 Defendant notes, the fact that Plaintiffs previously agreed to a stipulated protocol for the exact
26 searches at issue here weighs in favor of granting this motion. *See, e.g.,* Docket No. 181 at 6 (citing
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1 *Direct Lineal Descendants of Jack v. Sec'y of the Interior*, 2014 WL 5439781, at *1 (D. Nev. Oct.
2 24, 2014)).

3 III. CONCLUSION

4 Accordingly, Defendant's motion to compel inspection of decedent's computer hard drive
5 and mobile telephone, Docket No. 181, is hereby **GRANTED**. Plaintiffs shall allow Defendant
6 access to the decedent's electronic devices in accordance with the parties' stipulated protocol for
7 preservation and forensic evaluation of electronically stored information, Docket No. 105, no later
8 than March 17, 2017.

9 IT IS SO ORDERED.

10 DATED: March 3, 2017

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12 NANCY J. KOPPE
13 United States Magistrate Judge
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